



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 209 through 217 (as introduced 3-16-23)
Senate Bill 246 (as introduced 3-23-23)
Sponsor: Senator Sarah E. Anthony (S.B. 209, S.B. 210, S.B. 217)
Senator Sylvia Santana (S.B. 211)
Senator Veronica Klinefelt (S.B. 212)
Senator Rosemary Bayer (S.B. 213)
Senator Ruth Johnson (S.B. 214)
Senator Mark E. Huizenga (S.B. 215)
Senator Erika Geiss (S.B. 216)
Senator Roger Victory (S.B. 246)
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 5-16-23

INTRODUCTION

Taken together, the bills would increase, from 16 to 18 years old, the minimum age at which an individual could get married in Michigan. They would prohibit a minor's parent or legal guardian from providing consent for the minor's marriage. They also would modify various penalties under the Penal Code related to spouses under the age of 16.

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bills 209, 210, 211, 212, 213, 214, 215, 216, and 246 are reintroductions of Senate Bills 1114, 1115, 1116, 1118, 1119, 1120, 1121, 1122 and 1117, respectively, of the 2021-2022 Legislative Session. Senate Bill 217 is similar to Senate Bill 1123 of the 2021-2022 Legislative Session. Senate Bills 1114-1123 were reported from the Senate Committee on Judiciary and Public Safety but received no further action.

FISCAL IMPACT

Senate Bill 209 through Senate Bill 211, and Senate Bill 246 would not have a fiscal impact on State government. There could be some positive fiscal impact on county clerks or probate judges in the form of reduced costs, as the bills would eliminate procedures by which minors 16 or older may acquire a marriage license with parental consent in written form. Senate Bills 213 through Senate Bill 217 would have no fiscal impact on State or local government.

There would likely be long-term, indirect benefits to the State in the form of income tax. Research has shown that girls who marry before 18 years old are less likely to engage in higher education and more likely to fall into poverty. Related costs to the State could include mental health and public assistance costs, increased social services costs, and court proceeding costs as child marriage correlates to higher rates of divorce and domestic violence.

MCL 555.51 (S.B. 209)
551.103 (S.B. 210); 551.201 (S.B. 211)
700.2519 et al. (S.B. 212); 722.4 & 722.4e (S.B. 213)
552.34 (S.B. 214); 428.304 (S.B. 215); 722.1555 (S.B. 216)
750.13 et al. (S.B. 217); 551.251 (S.B. 246)

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CONTENT

Senate Bill 209 would amend Public Act (PA) 352 of 1921, which prohibits the marriage of an individual under 16 years of age, to increase, from 16 years to 18 years, the minimum age for an individual to get married in Michigan, and to void any marriage entered into by an individual under 18 years of age.

Senate Bill 210 would amend PA 128 of 1887, which requires parties to be married to obtain a marriage license and establishes the minimum age to contract into a marriage, to do the following:

- Delete a provision allowing a person who was at least 16 years of age but less than 18 years of age to contract into a marriage with the written consent of one of his or her parents or legal guardian.
- Modify the population requirement for a county that wished to impose a marriage license fee or nonresident marriage license fee different in amount than the license fees specified in the Act.

Senate Bill 211 would amend PA 180 of 1897, which governs the issuance of marriage licenses and certificates without publicity, to delete provisions allowing an individual under marriageable age to consent to contract into a marriage with the written consent of his or her parents or legal guardian.

Senate Bill 212 would amend the Estates and Protected Individuals Code (EPIC) to delete a provision allowing a guardian to consent to a minor ward's marriage and to modify the statutory will form to include the changes proposed in various bills in this package.

Senate Bill 213 would amend PA 293 of 1968, which, among other things, establishes the conditions for emancipation of minors, to delete provisions declaring a minor emancipated when he or she is married validly.

Senate Bill 214 would amend the Revised Statutes (RS) 84 of 1846 (Of Divorce) to delete a provision prohibiting a marriage from being annulled when it appears that the parties, after they had attained the age of consent, had freely cohabited as husband and wife.

Senate Bill 215 would amend PA 125 of 2001, which prescribes the rights and responsibilities of hotel and bed and breakfasts with respect to renting or leasing rooms to minors, to modify a provision allowing a hotel or bed and breakfast to require that an individual provide documentary evidence confirming the age of an individual renting or leasing a room or documentary evidence of the emancipation of a minor.

Senate Bill 216 would amend the Safe Families for Children Act to prohibit a parent from authorizing to consent to the marriage of a child who was under the legal age of marriage.

Senate Bill 217 would amend the Michigan Penal Code to modify various provisions to delete reference to spouses under age 16.

Senate Bill 246 would amend PA 160 of 1919, which releases legally married minors from parental control and determines their marital rights and duties, to make various language and grammatical changes.

Senate Bills 209, 210, 211, and 246 are tie-barred, and each bill also is tie-barred to Senate Bill 212. Senate Bill 212 is tie-barred to Senate Bill 209. Senate Bill 217 is tie-barred to Senate Bill 246.

All bills except Senate Bill 246 are described in greater detail below.

Senate Bill 209

Public Act 352 of 1921 prohibits a marriage in the State from being contracted by an individual who is under 16 years of age. The bill would increase minimum age from 16 to 18 years of age. Also, a marriage by an individual under 18 years of age would be void.

Public Act 352 also specifies that it does not prohibit probate judges from exercising their powers to perform marriages as provided by PA 180 of 1897. The bill would delete this provision.

Senate Bill 210

Parental Consent for Marriage

Public Act 128 of 1887 requires all parties to be married to obtain a marriage license from the county clerk of the county in which either party resides. A party applying for a marriage license must make and file an application in the form of an affidavit with the county clerk as a basis for issuing the license.

Section 3 of the Act specifies that a person who is 18 years of age or older may contract into a marriage. A person who is 16 years of age but less than 18 years of age may contract into a marriage with the written consent of one of his or her parents or legal guardian. As proof of age, the person who intends to be married, in addition to the statement of age in an application for a marriage license, when requested by a county clerk, must submit a birth certificate or other proof of age. If it appears from the affidavit that either the applicant for a marriage license or the person whom he or she intends to marry is under 18 years of age, the county clerk must require the written consent of one of the parents of each person under 18 years of age, or of the person's legal guardian, unless the person does not have a living parent or guardian.

The bill would delete the provisions allowing a person who is 16 years of age but less than 18 years of age from contracting into a marriage with written consent of his or her parents or legal guardian.

Marriage License Fee

Under the Act, a person applying for a marriage license must pay a \$20 fee, which a county clerk must pay into the county's general fund. If both parties to an application for a marriage license are nonresidents, the person applying for the license must pay an additional \$10 fee.

A charter county that has a population of over 2.0 million may impose by ordinance a marriage license fee or nonresident marriage license fee, or both, different in amount than the fees described above. The bill would lower the population threshold described above from 2.0 million to 1.5 million.

Senate Bill 211

Public Act 180 of 1887 allows a probate judge to marry, without publication (i.e., the date of the marriage is kept sealed), individuals under marriageable age, as provided in Section 3 of PA 128 of 1887, if a marriage application is accompanied by one of the following:

- A written request of all the biological or adopting living parents of both parties, and their guardian or guardians if either or both of the parents are dead.
- A written request of the parents or guardians of the party under marriageable age if only one party to the marriage is under the marriageable age.

If a noncustodial parent has been given notice of a request for consent by personal service or registered mail at his or her last known address, and he or she fails to enter an objection within five days after receiving the notice, then the consent must be required only of a parent to whom custody of the child has been awarded by a court. The consent may not be required of a parent confined in a State or Federal penal institution, or confined in a mental health hospital under adjudication of legal incapacity by a court of competent jurisdiction, or upon the return of process by the sheriff of the county in which the parent was last known to reside made not less than five, but not more than 14 days after the issuance of a process certifying that after diligent search the parent cannot be found within the county.

The bill would delete these provisions.

Senate Bill 212

Under EPIC, a minor's guardian has the powers and responsibilities of a parent who is not deprived of custody of the parent's minor and unemancipated child, except that a guardian is not legally obligated to provide for the ward from the guardian's own money and is not liable to third parties because of the parental relationship for the ward's acts. The Code prescribes certain powers and duties of a guardian.

These powers and duties include consenting to a minor ward's marriage. The bill would delete this provision.

Senate Bill 213

Public Act 293 specifies that emancipation may occur by operation of law or according to a petition filed by a minor with the family division of circuit court. An emancipation occurs by operation of law under any of the following circumstances:

- When an individual reaches 18 years of age.
- During the period when the minor is on active duty with the United States Armed Forces.
- For the purposes of consenting to routine, nonsurgical medical care or emergency medical treatment to a minor, when the minor is in the custody of a law enforcement agency and the minor's parents or guardian cannot be located promptly.
- For the purposes of consenting to his or her own preventive health care or medical care during the period when the minor is a prisoner committed to the jurisdiction of the Michigan Department of Corrections (MDOC) and is housed in a State correctional facility operated by the MDOC or in a youth correctional facility operated by the MDOC or a private vendor or the period when the minor is a probationer residing in a special alternative incarceration unit.

An emancipation also occurs by operation of law when a minor is married validly. The bill would delete this provision.

Public Act 293 specifies that a minor emancipated by operation of law or by court order has the rights and responsibilities of an adult, except for those specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, and other health and safety regulations relevant to him or her because of his or her age.

A minor is considered emancipated for certain purposes, including the right to marry. The bill would delete this provision.

Senate Bill 214

Under RS 84, an action to annul a marriage on the ground that one of the parties was under the age of legal consent may be brought by the parent or guardian entitled to the custody of the minor or by the next friend of the minor, but the marriage may not be annulled on the application of a party who was of the age of legal consent at the time of the marriage

Also, the marriage may not be annulled when it appears that the parties, after they had attained the age of consent, had freely cohabited as husband and wife. The bill would delete this provision.

Senate Bill 215

Under PA 125 of 2001, a hotel or bed and breakfast may require that an individual provide documentary evidence confirming the age of an individual renting or leasing a hotel room or bed and breakfast room or documentary evidence of the emancipation of a minor, including a driver license, a registration certificate issued by the Federal Selective Service, a marriage license, or other bona fide documentary evidence of the age and identity of the individual or emancipation of the minor. The bill would delete the reference to a marriage license.

Senate Bill 216

The Safe Families for Children Act specifies that a parent or guardian cannot delegate his or her power to consent to marriage of a minor child. The bill would delete this provision.

The bill also specify that a parent would not be authorized to consent to the marriage of a child who was under the legal age of marriage.

Senate Bill 217

Taking Away or Enticing a Minor under 16

Section 13 of the Penal Code specifies that a person who takes or entices away a minor under the age of 16 years from the minor's father, mother, guardian, or other person having the legal charge of the minor, without their consent, for the purpose of prostitution, concubinage, sexual intercourse, or marriage is guilty of a felony punishable by imprisonment for not more than 10 years.

The bill would delete the reference to marriage.

Third-Degree Criminal Sexual Conduct

Under Section 520d of the Penal Code, a person is guilty of third-degree criminal sexual conduct (CSC) if the person engages in sexual penetration with another person and if the other person is at least 16 years of age but less than 18 years of age and a student at a public

school or nonpublic school and the actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or intermediate school district (ISD).

This provision does not apply if the other person is emancipated or if both people are lawfully married to each other at the time of the violation. The bill would delete the exception of both people being lawfully married to each other at the time of the violation.

A person also is guilty of third-degree CSC if the person engages in sexual penetration with another person and if the other person is at least 16 years of age but less than 26 year of age and is receiving special education services, and the actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or ISD.

This provision does not apply if both people are lawfully married to each other at the time of the alleged violation. Instead, under the bill, the provision would not apply if both people were not less than 18 years of age and were lawfully married to each other at the time of the alleged violation.

Fourth-Degree Criminal Sexual Conduct

Under the Penal Code, a person is guilty of fourth-degree CSC if he or she engages in sexual conduct with another person if that other person is at least 16 years of age but less than 18 years of age and a student at a public school or nonpublic school and the actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or ISD.

This provision does not apply if the other person is emancipated or if both people are lawfully married to each other at the time of the alleged violation. The bill would delete the exception of both people being lawfully married to each other at the time of the violation.

A person also is guilty of fourth-degree CSC if he or she engages in sexual conduct with another person if that other person is at least 16 years of age but less than 26 years of age and is receiving special education services, and the actor is a teacher, substitute teacher, or administrator of that public school, nonpublic school, school district, or ISD.

This provision does not apply if both people are lawfully married to each other at the time of the alleged violation. Instead, under the bill, the provision would not apply if both people were not less than 18 years of age and were lawfully married to each other at the time of the alleged violation.

Legal Spouse as Victim

Section 520l of the Penal Code allows a person to be charged and convicted under Sections 520b to 520g even though the victim is his or her legal spouse. However, a person may not be charged or convicted solely because his or her legal spouse is under the age of 16, mentally incapable, or mentally incapacitated.

The bill would delete reference to a legal spouse under the age of 16.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.